

### **REMARKS**

This is in response to the final Office Action mailed November 3, 2009 in the above captioned application.

In the previous Action, apparently, the rejection of claims 1-14 under 35 USC §102(b) based upon EP 1,488,775 was withdrawn. In this regard, the Examiner stated, "EP '775 is insufficient to anticipate the above listed claims [i.e. claims 1-14]." Page 2 of the Action (bracketed text added).

However, the rejection of claims 1-14 under 35 USC §103(a) based upon EP 1,488,775 was maintained.

In view of the enclosed Declaration and the clarifying explanations presented herein, it is respectfully submitted that the present rejection under §103 must now be withdrawn and all claims 1-14 allowed. Specifically, as explained in the accompanying Declaration, the oil-based cleansing compositions of Examples 5-8 in the EP '775 reference were prepared and mixed with water in the ratio specified in the pending claims. Upon mixing with water, all of the compositions of Examples 5-8 exhibited a two phase system having a white turbid appearance. As explained in the present application, this is undesirable.

All pending claims recite that the cleansing composition when mixed with water in the noted ratio is either a micellar aqueous solution phase or a bicontinuous microemulsion phase. These are one phase systems. As stated in the accompanying Declaration, the claimed compositions when in these phases are transparent. Thus, all pending claims are distinguishable over the EP '775 reference.

Furthermore, as declared in the Declaration, the inventors stated that it was surprising and unexpected that the oil-based cleansing compositions of the pending claims, when mixed with water in the noted ratio, were transparent. This significant discovery led to the preparation and filing of the present application. As explained in items 1-3 of the Declaration, a problem with previously known oil-based cleansing compositions is that upon mixing with water, they tend to form white turbid appearing mixtures. For at least these reasons, it is respectfully submitted that the claims at issue are allowable.

It is respectfully submitted that an artisan following the teachings of the EP '775 reference would be motivated to form oil-based cleansing compositions such as Examples 5-8. Those compositions are noted as preferred and representative of the purported invention. However, as evidenced in the accompanying Declaration, those compositions, upon mixing with water in the noted ratio, form undesirable white turbid appearing mixtures. Thus, one following the teachings of the EP '775 reference would form compositions significantly different than the compositions recited in the pending claims. As noted in the Declaration, the compositions taught in the EP '775 reference form a two phase system and exhibit a white turbid appearance. In contrast and as noted in the Declaration, the claimed compositions of the present application form a one phase system and exhibit a transparent appearance.

The cited EP '775 entirely fails to provide any guidance or teaching as to how to form a transparent, one phase system from an oil-based cleansing composition and water upon mixing the composition and water in a ratio of 4:6. Instead, an artisan following the teachings of the EP '775 reference would form oil-based cleansing

compositions such as those of Examples 5-8 which when mixed with water in a ratio of 4:6, would form white turbid appearing two phase systems.

Thus, in summary, it will be appreciated that the compositions of the EP '775 reference are significantly different than those of the pending claims. Upon mixing with water in the ratio recited in claim 1, the compositions of the EP '775 reference form two phase systems and exhibit an undesirable white turbid appearance. In contrast, the pending claims form a one phase system and are transparent. Claim 1 expressly excludes the compositions addressed in the EP '775 reference by the claim recitation that "a micellar aqueous solution phase or a bicontinuous microemulsion phase is formed." Clearly, the EP '775 reference fails to teach or even suggest these features. Moreover, as declared by the inventors, the formation of transparent mixtures of the claimed oil-based cleansing compositions and water was surprising and unexpected. This alone is sufficient basis for allowing the claims over the EP '775 reference. Furthermore, one following the teachings of the EP '775 reference would be led in a direction away from the claimed compositions. As noted, many of the compositions taught in that reference form two phase systems having a white turbid appearance upon mixing with water, in contrast to the presently claimed compositions. Accordingly, it is respectfully submitted that the rejection under §103 be withdrawn and all claims 1-14 be allowed.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 18-0160, our Order No. IWI-16714.

Respectfully submitted,

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